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10/022,291	12/14/2001	Samuel J. McKelvie	3399P071	2854

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EXAMINER

EL CHANTI, HUSSEIN A

ART UNIT	PAPER NUMBER
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2157

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06/13/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/022,291	Applicant(s) MCKELVIE ET AL.	
	Examiner Hussein A. El-chanti	Art Unit 2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 6, 7, 9-15, 17-33 and 44-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 6-7, 9-15, 17-33 and 44-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to RCE received on April 12, 2007. Claims 45-48 were newly added. Claims 1, 6-33, 41 and 44-48 are pending examination.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 33, 45 and 47-48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 33, 45 and 47-48 recite the limitation " collect information about the properties of other agents, including the device agents, and route the collected information to one or more other agents " in the claim. There is insufficient antecedent basis for this limitation in the claim for "other agents" and "one or more other agents".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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3. Claims 1, 6-7, 11-13, 15, 17-33, 44-46 and 48 are rejected under 35 U.S.C. 102(e) as being anticipated by Zilberstein, U.S. Patent No. 6,606,657 (referred to hereafter as Zilber).

As to claims 1 and 45, Zilber teaches a computer-implemented apparatus for use by a plurality of users using a plurality of user devices, the apparatus comprising a plurality of agents of a plurality of different types to communicate with each other, at least some of the agents representing physical entities, the plurality of agents including:

a plurality of device agents, each representing one of the plurality of user devices (see col. 12 lines 32-60, each user has an agent that tracks the current position of the user browser);

a plurality of persona agents, which are separate from the device agents, each of the persona agents representing one of the plurality of users (see col. 5 lines 16-45, each user has a demographic information recorded on the server).

wherein the plurality of persona agents collect information about the properties of other agents, including the device agents, and route the collected information to one or more other agents which subscribe to the properties (see col. 5 lines 57-col. 6 lines 46, the search agents locates other users that has similar interests based on the properties).

As to claims 6 and 46, Zilber teaches a computer-implemented apparatus as recited in claims 1 and 45, wherein the device agents communicate with each other through one or more of the persona agents (see col. 5 lines 57-col. 6 lines 46).

As to claim 7, Zilber teaches a computer-implemented apparatus as recited in claim 6, wherein each of the plurality of agents has a set of properties to maintain state information (see col. 12 lines 32-60).

As to claim 11, Zilber teaches a computer-implemented apparatus as recited in claim 1, wherein the plurality of agents use a data synchronization process to update state information (see col. 12 lines 32-60).

As to claim 44, Zilber teaches a computer-implemented apparatus as recited in claim 9, wherein the state information comprises device presence or location information (see col. 12 lines 32-60).

As to claim 12, Zilber teaches a computer-implemented apparatus as recited in claim 11, wherein at least some of the agents cache state information received from another agent (see col. 5 lines 57-col. 6 lines 46).

As to claim 13, Zilber teaches a computer-implemented apparatus as recited in claim 1, wherein the plurality of agents comprises a chat agent to represent a chat session (see col. 5 lines 57-col. 6 lines 46).

As to claim 15, Zilber teaches a computer-implemented apparatus as recited in claim 1, wherein the agents communicate with each other using an extensible data interchange protocol (see col. 5 lines 57-col. 6 lines 46).

As to claim 17, Zilber teaches a computer-implemented apparatus as recited in claim 1, wherein a change to a property of one of the agents is automatically published

to an agent which has subscribed to the property of said one of the agents (see col. 5 lines 57-col. 6 lines 46).

As to claim 18, Zilber teaches a computer-implemented apparatus as recited in claim 1, wherein at least some of the agents can set properties of other ones of the agents (see col. 5 lines 57-col. 6 lines 46).

As to claim 19, Zilber teaches a computer-implemented apparatus as recited in claim 1, wherein for at least one of the agents, a user associated with said agent can control which agents may subscribe to properties of said agent (see col. 11 lines 36-col. 12 lines 9).

As to claim 20, Zilber teaches a computer-implemented apparatus as recited in claim 1, wherein for at least one of the agents, a user associated with said agent can specify the properties of said agent to which other agents may subscribe (see col. 11 lines 36-col. 12 lines 9).

As to claim 21, Zilber teaches a computer-implemented apparatus as recited in claim 20, wherein the user associated with said agent can specify the properties of said agent to which other agents may subscribe on a per-subscriber basis (see col. 11 lines 12-35).

As to claim 22, Zilber teaches a computer-implemented apparatus as recited in claim 1, wherein the plurality of agents further comprises an interoperability agent to connect the messaging system with another messaging system (see col. 11 lines 36-51).

As to claim 23, Zilber teaches a computer-implemented apparatus as recited in claim 22, wherein the interoperability agent converts between an extensible data interchange protocol used by the plurality of agents and another protocol used by said other messaging system (see col. 5 lines 50-col. 6 lines 15 and col. 3 lines 22-37).

As to claim 24, Zilber teaches a computer-implemented apparatus as recited in claim 1, wherein the apparatus embodies a messaging application (see fig. 5 and 3B).

As to claim 25, Zilber teaches a computer-implemented apparatus as recited in claim 24, wherein the messaging application comprises a user-to-user messaging application (see fig. 5 and 3B).

As to claim 26, Zilber teaches a computer-implemented apparatus as recited in claim 25, wherein the user-to-user messaging application is an Instant Messaging (IM) application (see col. 11 lines 36-51).

As to claim 27, Zilber teaches a computer-implemented apparatus as recited in claim 1, wherein the apparatus embodies a content distribution application (see fig. 5-6).

As to claim 28, Zilber teaches a computer-implemented apparatus as recited in claim 1, wherein the apparatus embodies a game application (see col. 11 lines 36-51).

As to claim 29, Zilber teaches a computer-implemented apparatus as recited in claim 1, wherein the apparatus embodies a user collaboration application (see fig. 3-5).

As to claim 30, Zilber teaches a computer-implemented apparatus as recited in claim 1, wherein the apparatus embodies a call setup application (see fig. 3-5).

As to claim 31, Zilber teaches a computer-implemented apparatus as recited in claim 1, wherein the apparatus embodies a provisioning application (see fig. 3-5).

As to claim 32, Zilber teaches a computer-implemented apparatus as recited in claim 1, wherein the apparatus embodies an alerting/notification application (see col. 5 lines 50-col. 6 lines 15 and col. 3 lines 22-37).

As to claim 48, Zilber teaches a computer-implemented apparatus for use by a plurality of users using a plurality of user devices, the apparatus comprising a plurality of agents of a plurality of different types to communicate with each other, at least some of the agents representing physical entities, the plurality of agents including:

a plurality of device agents, each representing one of the plurality of user devices (see col. 12 lines 32-60, each user has an agent that tracks the current position of the user browser);

a plurality of persona agents, which are separate from the device agents, each of the persona agents representing one of the plurality of users (see col. 5 lines 16-45, each user has a demographic information recorded on the server);

wherein the plurality of persona agents collect information about the properties of other agents, including the device agents, and route the collected information to one or more other agents which subscribe to the properties forming a person-to-person electronic messaging application (see col. 5 lines 57-col. 6 lines 46 and fig. 3-5, the search agents locates other users that has similar interests based on the properties).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8-10, 14, 16, 37 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zilber.

As to claim 8, Zilber teaches a computer-implemented apparatus as recited in claim 7, wherein the plurality of user devices comprises a device, the device comprising an embedded client application configured to receive and interpret HTML data representing changes to said state information (see col. 3 lines 39-55).

Zilber does not explicitly teach the language is XML. Official Notice is taken as evident by Microsoft Computer Dictionary 5th Edition that it would have been obvious for one of the ordinary skill in the art at the time of the invention to implement Zilber's messaging system using XML because doing so would provide greater flexibility in organizing and presenting information.

Zilber does not explicitly teach the network is a wireless network and the devices are mobile devices. Official notice is taken that it would have been obvious for one of the ordinary skill in the art to use wireless devices to communicate with other devices as taught by Zilber because doing so would give the user the freedom to communicate

from any geographic location. In re Lindberg, 194 F.2d 732, 93 USPQ 23 (CCPA 1952) (Fact that a claimed device is portable or movable is not sufficient by itself to patentably distinguish over an otherwise old device unless there are new or unexpected results.).

As to claims 16 and 41, Zilber teaches a user-to-user messaging system comprising: a chat agent to represent a user-to-user messaging session; a plurality of agents to communicate messages between a plurality of users in real time by using a language document synchronization model, each of the agents having one or more properties defined in and having the ability to subscribe to properties of other agents of the plurality of agents, wherein the plurality of agents communicate with each other using an based messaging protocol, the plurality of agents including a plurality of device agents, one for each of a plurality of user devices used by the plurality of users, the plurality of user devices including a computer coupled to a wireline network and a mobile device operating on a wireless network; and a plurality of persona agents residing in an agent system coupled to the network and to the wireline network, one persona agent for each of the users, to collect information about the properties of other agents, including the device agents, and to publish the collected information to one or more other agents which subscribe to the properties, wherein each of the persona agents comprises a set of properties to maintain state information for each user device used by the user associated with said persona agent (see col. 4 lines 51-col. 5 lines 21 and col. 6 lines 63-col. 7 lines 45).

Zilber does not explicitly teach the language is XML. Official Notice is taken as evident by Microsoft Computer Dictionary 5th Edition that it would have been obvious for

one of the ordinary skill in the art at the time of the invention to implement Zilber's messaging system using XML because doing so would provide greater flexibility in organizing and presenting information.

Zilber does not explicitly teach the network is a wireless network and the devices are mobile devices. Official notice is taken that it would have been obvious for one of the ordinary skill in the art to use wireless devices to communicate with other devices as taught by Zilber because doing so would give the user the freedom to communicate from any geographic location. In re Lindberg, 194 F.2d 732, 93 USPQ 23 (CCPA 1952) (Fact that a claimed device is portable or movable is not sufficient by itself to patentably distinguish over an otherwise old device unless there are new or unexpected results.).

As to claim 9, Zilber teaches a computer-implemented apparatus as recited in claim 1, wherein at least one of the device agents represents a user device that has an intermittent connection to the other user devices, wherein said device agent has a set of subscriptions and maintains state information for the set of subscriptions, and wherein said device agent communicates with a corresponding one of the persona agents to update said state information (see col. 5 lines 50-col. 6 lines 15 and col. 3 lines 22-37).

Zilber does not explicitly teach the network is a wireless network and the devices are mobile devices. Official notice is taken that it would have been obvious for one of the ordinary skill in the art to use wireless devices to communicate with other devices as taught by Zilber because doing so would give the user the freedom to communicate from any geographic location. In re Lindberg, 194 F.2d 732, 93 USPQ 23 (CCPA 1952)

(Fact that a claimed device is portable or movable is not sufficient by itself to patentably distinguish over an otherwise old device unless there are new or unexpected results.).

As to claim 10, Zilber teaches a computer-implemented apparatus as recited in claim 9, wherein said corresponding one of the persona agents automatically publishes to said device agent state information to which the device agent has subscribed, when the user device represented by said device agent establishes the connection (see col. 5 lines 50-col. 6 lines 15 and col. 3 lines 22-37).

As to claim 14, Zilber teaches a computer-implemented apparatus as recited in claim 1, wherein the plurality of user devices comprises a computer coupled to a wireline network and a mobile device operating on a network, the computer and the mobile device each represented by a separate one of the agents (see col. 3 lines 39-59).

Zilber does not explicitly teach the network is a wireless network and the devices are mobile devices. Official notice is taken that it would have been obvious for one of the ordinary skill in the art to use wireless devices to communicate with other devices as taught by Zilber because doing so would give the user the freedom to communicate from any geographic location. In re Lindberg, 194 F.2d 732, 93 USPQ 23 (CCPA 1952) (Fact that a claimed device is portable or movable is not sufficient by itself to patentably distinguish over an otherwise old device unless there are new or unexpected results.).

As to claim 47, Zilber teaches a computer-implemented apparatus for use by a plurality of users using a plurality of user devices, the apparatus comprising a plurality of

agents of a plurality of different types to communicate with each other, at least some of the agents representing physical entities, the plurality of agents including:

a plurality of device agents, each representing one of the plurality of user devices (see col. 12 lines 32-60, each user has an agent that tracks the current position of the user browser);

a plurality of persona agents, which are separate from the device agents, each of the persona agents representing one of the plurality of users (see col. 5 lines 16-45, each user has a demographic information recorded on the server).

wherein the plurality of persona agents collect information about the properties of other agents, including the device agents, and route the collected information to one or more other agents which subscribe to the properties (see col. 5 lines 57-col. 6 lines 46, the search agents locates other users that has similar interests based on the properties);

wherein the device agents communicate with each other through one or more of the persona agents (see col. 5 lines 57-col. 6 lines 46).

Zilber does not explicitly teach the network is a wireless network and the devices are mobile devices. Official notice is taken that it would have been obvious for one of the ordinary skill in the art to use wireless devices to communicate with other devices as taught by Zilber because doing so would give the user the freedom to communicate from any geographic location. In re Lindberg, 194 F.2d 732, 93 USPQ 23 (CCPA 1952)

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(Fact that a claimed device is portable or movable is not sufficient by itself to patentably distinguish over an otherwise old device unless there are new or unexpected results.).

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hussein A. El-chanti whose telephone number is (571)272-3999. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571)272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Hussein Elchanti

May 25, 2007


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